United Nations S/2008/496

Security Council

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29 July 2008

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Letter dated 28 July 2008 from the Secretary-General addressed to the President of the Security Council

I am writing in response to your letter dated 3 July 2008 in which you transmitted to me identical letters dated 10 June 2008 from the President of the Security Council addressed to the Prime Minister of Ethiopia, Meles Zenawi, and the President of Eritrea, Isaias Afwerki, seeking their views on options for future United Nations engagement in their countries. Together with those letters, you also forwarded their responses dated 17 and 18 June 2008.

On the basis of the second paragraph of your letter of 3 July 2008, I asked the Secretariat to consult with the parties in connection with the aforementioned responses. I am pleased to report on the Secretariat's consultations with the parties, which were based on the following options: (a) a small military observer mission in Ethiopia; (b) a small political and military liaison office in Ethiopia; and (c) a Special Envoy of the Secretary-General based in New York.

All options were designed as conflict prevention measures aimed to demonstrate the continued commitment of the international community to a peaceful resolution of the border dispute between Ethiopia and Eritrea, pending the establishment of an environment conducive to the normalization of relations between the two countries. The options also took into consideration the positions expressed by the two Governments respectively in their letters to the Security Council dated 17 and 18 June 2008.

On 22 July 2008, my Acting Special Representative for Ethiopia and Eritrea and Head of the United Nations Mission in Ethiopia and Eritrea (UNMEE) consulted the Government of Ethiopia on these options. Following those consultations, on 24 July 2008, the Minister for Foreign Affairs of Ethiopia addressed a letter to me outlining the position of Ethiopia on the matter. A copy of the letter is attached (annex I).

Also on 22 July 2008, the Assistant Secretary-General for Peacekeeping Operations met with the Permanent Representative of Eritrea to the United Nations to seek the views of his Government on the above-mentioned options. Following that meeting, on 24 July 2008, the Permanent Representative of Eritrea addressed a letter to me indicating the views of the Government of Eritrea on the matter. A copy of the letter is also attached (annex II).

As indicated in their letters, both parties have rejected the options put before them. I welcome their earlier declarations that they have no intention of restarting

the war. Nevertheless, I believe that the risk of escalation of tension in the border area and a resumption of hostilities, by accident or design, following the withdrawal of UNMEE remains a reality. I also remain concerned over the destabilizing effect for the Horn of Africa of the continuing crisis, as well as the negative impact it has on prospects for economic development and the welfare of the people of the region.

I welcome the engagement of the Security Council with the two parties over recent months. This has provided a fresh impetus to the process and, it is to be hoped, could lead to the fulfilment of the Council's responsibilities vis-à-vis the Algiers Agreements. The Security Council should keep this issue on its agenda and remain fully engaged with the two parties, with the view to addressing the underlying legal, political and security issues at the core of the crisis, including the implementation of the decisions of the Eritrea-Ethiopia Boundary Commission, in accordance with the Algiers Agreements.

For my part, I intend to continue working closely with both parties through my good offices, which remain available, with the view to assisting them in normalizing their relations, which is crucial to maintaining peace and security in the subregion.

(*Signed*) **Ban** Ki-moon

Annex I

Letter dated 24 July 2008 from the Minister for Foreign Affairs of Ethiopia addressed to the Secretary-General

I wish to refer you to the meeting on 7 July 2008 that you had with my Prime Minister at Yokohama, Japan. I wish also to refer to the subsequent communications that we have had with the United Nations here in Addis as well as in New York concerning the situation between Ethiopia and Eritrea, most particularly regarding the possibility of a United Nations presence in our region in the post-UNMEE period.

In this regard, we have had the opportunity to look at the United Nations aide-memoire which was made available to us containing three proposals. You may have already been informed about the difficulty we have to accept the first two proposals for reasons that we have already explained both in New York and in Addis Ababa. After further deliberation, we have also now come to the conclusion that the idea of a Special Envoy may not also be practical, or desirable. The idea is not practical because, as should have been clear to the United Nations already, the other party, Eritrea, has never accepted the notion of a Special Envoy and is unlikely to change its mind now. It is not desirable because, in our view, such a course of action is bound to be an ineffective substitute for measures that should have been taken by the Security Council to protect UNMEE, to defend the integrity of the Temporary Security Zone and ensure respect for the Agreement on Cessation of Hostilities.

Under these circumstances, it is with regret that we decided to inform you that, given the unique nature of the challenge we face, the designation of a Special Envoy at this juncture may not be an appropriate action to take. Ethiopia sees no reason for endorsing the proposal.

I shall be most grateful to discuss the matter with you further during the upcoming session of the General Assembly.

(*Signed*) Seyoum **Mesfin**
Minister

Annex II

Letter dated 24 July 2008 from the Permanent Representative of Eritrea to the United Nations addressed to the Secretary-General*

I have taken note of the aide-memoire, dated 22 July 2008, presented by the Department of Peacekeeping Operations of the Secretariat, detailing options on "how the United Nations could most effectively support [Eritrea and Ethiopia] in implementing fully the Algiers Agreements".

From the outset, I wish to emphasize that the only effective support the United Nations, in particular the Security Council, could give is to lend its full support to the impartial and independent arbitration body, the Eritrea-Ethiopia Boundary Commission, and its demarcation decision of 27 November 2007. Indeed, in accordance with the provisions of Articles 2 (3) and 2 (4) of the Charter of the United Nations and article 4 (15) of the Algiers Agreement, it behoves the Security Council to ensure the respect of the sovereignty and territorial integrity of a United Nations Member State.

Sadly, the different options presented previously and more or less repeated in the Department of Peacekeeping Operations' aide-memoire of 22 July totally shun this cardinal matter. The gist and entire focus of the options appear to be geared to prevent a presumed resumption of hostilities through a permanent presence of a United Nations observer force, in effect legitimizing Ethiopia's illegal occupation of sovereign Eritrean territories. The notion of a United Nations special envoy at this late stage of the process further accommodates Ethiopia's persistent request for an alternative mechanism to tamper with and modify the delimitation and demarcation determinations of the Eritrea-Ethiopia Boundary Commission. The Security Council clearly cannot entertain or indulge in this grave breach of the Algiers Agreement.

Eritrea cannot accept this state of affairs for all the cogent reasons cited above. Eritrea will have no problem in restoring good-neighbourly relations with Ethiopia. We are neighbours destined to live together and in harmony with the people of Ethiopia. We do not wish to live in permanent tension or under a tenuous peace that is maintained and monitored by a third force.

For this to happen, Ethiopia must withdraw its troops from sovereign Eritrean territories. Ethiopia's illegal occupation of Eritrean territories in violation of the Charter of the United Nations and the Algiers Agreement is the real obstacle that remains to be addressed. Eritrea expects and calls on the United Nations institutions to channel their efforts towards addressing this cardinal obstacle.

I should be most grateful if this letter and the letter from the President of the Eritrea-Ethiopia Boundary Commission (see enclosure) could be circulated as a document of the Security Council.

(*Signed*) Araya **Desta**
Ambassador
Permanent Representative

* Previously circulated under the symbol S/2008/487.

Enclosure

Letter dated 18 June 2008 from the President of the Eritrea-Ethiopia Boundary Commission to the Agent for the Government of Eritrea

Winding up of the operations of the Commission

It is now over six months since the expiry of the period which the Commission indicated in its Statement of 27 November 2006 and during which the Commission had hoped that the Parties would either themselves proceed to the placing of pillars on the ground or allow the Commission to do so. As there has been no communication from the Parties, the Commission must now reach the conclusion that the boundary stands demarcated in accordance with the coordinates annexed to that Statement, that no further activity on its part is called for and that it should therefore take the few final steps involved in winding up its operations. These include the return of physical assets to the United Nations and the preparation of final accounts.

If I do not hear from you to the contrary within the next two weeks I will take it that you see no objection to this procedure.

(*Signed*) Eli **Lauterpacht**
President

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29 July 2008

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Letter dated 25 July 2008 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council

I have the honour of writing to you in your capacity as President of the Security Council for the month of July 2008 and would like to request your kind assistance in circulating as document of the Security Council the present letter and the annexed appeal of the Parliament of Georgia dated 11 July 2008 (see annex).

(*Signed*) Irakli **Alasania**
Ambassador
Permanent Representative

08-44272 (E) 300708

Annex to the letter dated 25 July 2008 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council

Appeal of the Parliament of Georgia to the international community, international organizations and parliaments of partner countries

On 10 July 2008, the authorities of the Russian Federation officially admitted to the fact of military aggression against Georgia, carried out through the violation of Georgian airspace by four Russian military aircraft belonging to the Air Forces of the Ministry of Defence of Russia.

Through the unprecedented admission to the fact of aggression, the authorities of the Russian Federation attempt to demonstrate to the international community that they entitle themselves, ignoring the universally acknowledged international norms and on their own will, to wage military operations and create an explosive situation in the entire region.

It is a cause of deep concern that this is not a single, isolated incident but the continuation of a series of provocations against the sovereignty and territorial integrity of Georgia, resorted to by Russia throughout these last months, namely:

Through the withdrawal on 6 March 2008 from the decision of 19 January 1996 of the Council of Heads of the Commonwealth of Independent States, Russia unilaterally rejected the restrictive regime of military cooperation with the separatist administrations and restriction of an illegal military presence in the conflict regions.

By the decision of the President of Russia of 16 April 2008, Russia in fact ignored the territorial integrity of Georgia and created the possibility of establishing direct legal, political and economic links with the separatist regimes without the consent of the Georgian authorities.

On 20 April 2008 a fighter of the Russian Ministry of Defence violated Georgian airspace, carried out military aggression and shot down an unmanned plane belonging to the Ministry of Interior of Georgia. The fact was confirmed by the Organization for Security and Cooperation in Europe and the United Nations and widely condemned by the international community.

The authorities of the Russian Federation deployed its regular military units of the Ministry of Defence, the so-called "railway forces", and constructed military infrastructure on the territory of Georgia (in Abkhazia), and thus violated international norms, and the territorial integrity and sovereignty of Georgia.

Russia deployed paratroopers in the conflict zone brought in heavy military equipments and other armament which are not provided for by the peacekeeping mandate.

Russian armed forces openly support and assist illegal armed formations of the separatist regimes, therefore actually supporting terrorism on the territory of Georgia.

It is obvious that actions of the Russian Federation obstruct the restoration of trust between Georgians and Abkhazians, Georgians and Ossetians and impede the

process of peaceful settlement of disputes, therefore even further escalating the conflicts and endangering the stability of the entire region.

The act of military aggression by the Russian Federation which took place on 8 July 2008, through the violation of Georgian airspace, confirms once again that the Russian Federation acts as a party to the conflict and has no will and ability to guarantee the peaceful settlement of disputes.

Admission to the above-mentioned act of aggression by the Ministry of Foreign Affairs of Russia is not just an open recognition of an ongoing annexation and military occupation of the two regions of Georgia, but an overt attempt to launch military operations.

The Parliament of Georgia once again confirms the necessity of peaceful settlement of conflicts and appeals to the international community, international organizations and parliaments of partner countries:

To strongly condemn the aggressive acts carried out by the Russian Federation;

To support the peaceful initiative of Georgia that provides for the modification of the existing peaceful formats and the substitution of the so-called peaceful contingents with international police forces. Otherwise, the Georgian side will be compelled to take adequate legal measures with the aim of delegitimizing and speedily withdrawing the Russian armed forces from the conflict zones in the nearest future;

To undertake relevant political and international legal measures, in order to stop provocative actions of the Russian Federation and to create a timely and effective mechanism for halting the direct military aggression of the Russian Federation against Georgia.

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29 July 2008

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Letter dated 28 July 2008 from the Permanent Representative of Cambodia to the United Nations addressed to the President of the Security Council

Further to my letter dated 24 July 2008, I have the honour to convey to you the outcome of the meeting between Hor Namhong, Deputy Prime Minister, Minister for Foreign Affairs and International Cooperation of the Kingdom of Cambodia, and Tej Bunnag, Minister for Foreign Affairs of the Kingdom of Thailand, which took place in Siem Reap, Cambodia, on 28 July 2008, as follows:

1. The two Foreign Ministers agreed that both countries should exercise the utmost restraint to avoid the possibility of armed confrontation, so that the current problem may be settled through peaceful means, using existing bilateral mechanisms, including the Foreign Ministers' Meeting and the Thailand-Cambodian Joint Commission on Demarcation for Land Boundary which was set up by the 2000 Memorandum of Understanding on the Survey and Demarcation of Land Boundary.

2. Both sides agreed to recommend to their respective Governments to convene the next meeting of the Joint Boundary Commission as soon as possible to discuss issues related to the survey and demarcation of the relevant sector under the terms of reference and master plan of the Joint Boundary Commission following the next Foreign Ministers' Meeting.

3. Both sides agreed to recommend to their respective Governments as a provisional arrangement pending survey and demarcation by the Joint Boundary Commission to undertake:

   3.1 De-mining of the area to be surveyed and demarcated by the Joint Boundary Commission in a concerted manner;

   3.2 Setting up of a Temporary Coordinating Task Force comprising the relevant agencies from both sides to address problems related to the area, including Keo Sikha Kiri Svara Pagoda;

   3.3 Redeploying both sides' respective troops out of Keo Sikha Kiri Svara Pagoda, the area surrounding the Pagoda, and the Temple of Preah Vihear.

4. This arrangement shall be without prejudice to the rights of both sides regarding the survey and demarcation within the framework of the Joint Boundary Commission and their legal positions.

08-44284 (E) 290708

5. Both sides agreed to discuss other matters not yet agreed upon at this meeting at the next Foreign Ministers' Meeting.

I would like to request you to circulate the present letter as a document of the Security Council.

(*Signed*) **Sea** Kosal
Ambassador and Permanent Representative
of the Kingdom of Cambodia to the United Nations

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Letter dated 28 July 2008 from the Permanent Representative of Panama to the United Nations addressed to the President of the Security Council

I have the honour to transmit to you the assessment of the work of the Security Council during the presidency of Panama in February 2008 (see annex). This assessment has been prepared under my responsibility, following consultations with the other members of the Security Council.

I should be grateful if this letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Ricardo Alberto **Arias**
Ambassador
Permanent Representative

08-44370 (E) 310708 010808

Annex to the letter dated 28 July 2008 from the Permanent Representative of Panama to the United Nations addressed to the President of the Security Council

[Original: English]

Assessment of the work of the Security Council during the presidency of Panama (February 2008)

Introduction

During the presidency of Panama in February 2008, the Security Council held 17 meetings, including one open debate, one private debate, four debates and three briefings. In addition, the Council held consultations of the whole on 15 occasions. The Council also held one informal interactive discussion. The Council adopted four resolutions and five presidential statements and agreed on five statements to the press.

The Vice-President and Minister for Foreign Affairs of Panama, Samuel Lewis-Navarro, presided over the open thematic debate convened on 12 February on the topic of children and armed conflict.

Africa

Chad/Central African Republic

On Sunday, 3 February, the Security Council met in emergency consultations of the whole to discuss the security and political situation in Chad, following heavy fighting in its capital between rebel groups and the Chadian armed forces.

On 4 February, following further consultations of the whole, at its 5830th meeting the Council adopted presidential statement S/PRST/2008/3, in which it condemned the attacks and called on the parties to put an end to the violence. The Council expressed its support for African Union efforts to resolve the crisis, including the appointment of President al-Qadhafi of the Libyan Arab Jamahiriya and President Nguesso of the Congo to mediate a peaceful solution between the parties.

On 5 February, the Council was briefed by the Secretary-General in consultations of the whole on his trip to Africa, including his participation in the summit of the African Union. In his briefing, the Secretary-General expressed his concern regarding the security situation in Chad and its negative impact on the humanitarian situation. He also expressed his support for the efforts of the African Union, particularly those of the leaders of the Libyan Arab Jamahiriya and the Congo, to find a solution to the crisis.

On 13 February, in consultations of the whole, under other matters, the Council was briefed by the Assistant Secretary-General for Peacekeeping Operations, Edmond Mulet, on the latest developments in the security and political situation in Chad. Mr. Mulet highlighted the return to relative stability in the capital, N'Djamena, the deteriorating humanitarian situation in eastern Chad, the increasing tensions between the Sudan and Chad and the resumption of the deployment of the

European military operation (EUFOR Chad/CAR) charged with protecting the United Nations Mission in the Central African Republic and Chad.

On 26 February, the Council met with the Minister for Foreign Affairs of Chad, Ahmed Allam-Mi, in an informal interactive discussion on the political and security situation in Chad. The Foreign Minister informed the Council that while the security situation in N'Djamena was relatively calm, the security situation in eastern Chad was still volatile and the increasing violence in Darfur was also generating an increase in refugees fleeing across the border. Minister Allam-Mi accounted for the whereabouts of some of the opposition leaders that allegedly disappeared following the rebel's siege of N'Djamena. The Minister said that the Government had established a committee to investigate all disappearances resulting from the fighting in the capital, in which the international community was invited to participate. Lastly, the Foreign Minister expressed the willingness of Chad to engage constructively with both the Chadian rebels and the Government of the Sudan with a view to resolving their differences.

Democratic Republic of the Congo

On 13 February, in consultations of the whole, Ambassador Marty Natalegawa (Indonesia), Chairman of the sanctions Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, informed the members of the Council on the activities of the Committee, in particular the actions to be taken by the Committee regarding the recommendations made by the Group of Experts on its final report (see S/2008/43).

On 15 February, at its 5836th meeting, the Council adopted resolution 1799 (2008), which constituted a technical rollover of the sanctions regime and the mandate of the Group of Experts until 31 March 2008. The Council intends to continue reviewing the measures with a view to adjusting them, as appropriate, in the light of the consolidation of the security situation in the country.

Ethiopia/Eritrea

On 4 February, in consultations of the whole, under other matters, the Council considered and approved a press statement (SC/9240) in which it demanded that Eritrea resume fuel supplies to the United Nations Mission in Ethiopia and Eritrea (UNMEE) and facilitate the visit of the United Nations technical assessment mission to Asmara. The Council also warned that the failure to comply with its demands could result in the withdrawal of the Mission from Eritrea.

On 15 February, the Council met on an emergency basis in consultations of the whole to hear a briefing by the Under-Secretary-General for Peacekeeping Operations, Jean-Marie Guéhenno, on the difficulties facing UNMEE in temporarily relocating from Eritrea to Ethiopia, including Eritrean restrictions on the supplying of the Mission with fuel and food and the impeding of its movement across the border into Ethiopia. The Secretariat had altered the relocation plan, regrouping personnel in Asmara.

Immediately following that briefing, at its 5838th meeting, the Council adopted presidential statement S/PRST/2008/7, in which it expressed its concern about the Eritrean restrictions on UNMEE, condemned the lack of cooperation by Eritrea and demanded that Eritrea resume cooperation with the Mission. The

Council also expressed its determination to consider further appropriate steps to protect the Mission and its personnel.

On 21 February, the Council met again on an emergency basis in consultations of the whole to hear a briefing by the Assistant Secretary-General for Peacekeeping Operations, Edmond Mulet, on the latest developments related to the regrouping and relocation of UNMEE, namely, the resumption of food supplies to the Mission, the critical levels of fuel stocks and obstacles placed by Eritrea to the Mission's temporary relocation exercise. As a result of the continued difficulties encountered by the Mission, the Secretary-General will issue a special report with recommendations and options regarding the future of UNMEE.

Kenya

On 5 February, in consultations of the whole, the Council was briefed by the Secretary-General on his recent visit to the region. During his visit, the Secretary-General reiterated his call to both parties to end violence and sit down at the negotiating table. Also, he made clear to President Kibaki that it was his responsibility to protect the population from unwarranted attacks and to investigate the events that had led to the disturbances. The Secretary-General stressed that his meetings were not mediation efforts, but rather a show of support for other initiatives that were being undertaken. The Council members exchanged views on the issues, expressed concern at the ethnic violence and welcomed the efforts to bring peace to the country.

On 6 February, at its 5831st meeting, following consultations of the whole held on an emergency basis, the Council adopted presidential statement S/PRST/2008/4, in which it welcomed progress in the negotiations overseen by former Secretary-General Kofi Annan to defuse the crisis and emphasized its full support for the Panel of Eminent African Personalities, which he leads. The Council expressed its deep concern over the fact that civilians continue to be killed, subjected to sexual and gender-based violence and displaced from their homes. It called for those responsible to be brought to justice. It also expressed its strong concern at the continuing dire humanitarian situation in the country. The Council requested the Secretary-General to report on how the United Nations can further support the mediation efforts in Kenya, as well as on the impact of the crisis on the wider subregion and United Nations operations in that area.

On 25 February, at its 5845th meeting, the Council was briefed by John Holmes, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, about his visit to Kenya and the details of the humanitarian efforts undertaken by the relief community. In his report, Mr. Holmes stressed that further political polarization would exact a heavy toll on humanitarian relief efforts under way in the country. In his view, the United Nations must examine additional ways to collaborate with development efforts to bridge the social gaps that surfaced during the post-electoral violence. Immediately afterwards, during consultations of the whole, Council members exchanged views on the situation and on ways to better help the United Nations coordinate activities on the ground.

On 29 February, the members of the Council adopted a press statement (SC/9265) in which the Council welcomed the Agreement on the Principles of Partnership of the Coalition Government announced on 28 February between Mwai Kibaki and Raila Odinga to resolve the crisis in Kenya following the disputed

elections held on 27 December 2007. The members of the Council commended the parties in reaching the Agreement, as well as the efforts of the Panel of Eminent African Personalities, led by former Secretary-General Kofi Annan, in assisting them. They expressed their appreciation for the work of the African Union, President John Kufuor of Ghana, President Jakaya Kikwete of the United Republic of Tanzania and Secretary-General Ban Ki-moon. The members of the Council expressed their full support for Mwai Kibaki and Raila Odinga in forming a new Government and called for the Agreement to be implemented in full and without delay. The members of the Council recalled their statement of 6 February and expressed their support for the efforts to address the widespread violence. Recalling the need to avoid impunity, the members of the Council reiterated the need for those responsible for the violence to be brought to justice. The members of the Council urged Kenyan leaders to foster reconciliation, guarantee human rights and address the longer-term issues that the crisis has brought to the forefront.

Somalia

On 15 February, at its 5837th meeting, the Council was briefed by Lila Ratsifandrihamanana, Permanent Observer of the African Union, about the situation in Somalia and the status of the African Union Mission in Somalia (AMISOM). Mrs. Ratsifandrihamanana underscored the funding constraints faced by the mission and the numerous hurdles in the way of deploying the force at full strength. In addition, the Permanent Representative of Somalia, Elmi Ahmed Duale, made a statement in which he renewed his Government's appeal to the United Nations to develop existing contingency plans for the possible deployment of a peacekeeping operation to further enhance peace in Somalia and to support AMISOM, as set out in previous Security Council documents.

In consultations of the whole immediately following that meeting, the Assistant Secretary-General for Peacekeeping Operations, Edmond Mulet, presented a preview of the forthcoming report of the Secretary-General on the situation in Somalia. In his preview he dealt with a wide variety of issues in the country, especially with regard to the political and security situations in Somalia. He emphasized the work currently being undertaken by AMISOM to secure areas within its operational range and took note of the attack against the United Nations compound in Mogadishu. He also expressed concern at the deteriorating situation between "Puntland" and "Somaliland".

On 20 February, at its 5842nd meeting, the Council unanimously adopted resolution 1801 (2008), by which it renewed its authorization of AMISOM for another six months.

The Sudan (Darfur)

On 5 February, in consultations of the whole, the Council was briefed by the Secretary-General on his trip to Africa, including his participation in the summit of the African Union. In his briefing, the Secretary-General referred to his meeting with President Al-Bashir of the Sudan at the margins of the Summit. According to the Secretary-General, the meeting was quite positive, and there was a possibility of signing a status-of-forces agreement in the near future. Nevertheless, the Secretary-General reminded the Council that the African Union-United Nations Hybrid Operation in Darfur (UNAMID) was still missing a number of critical capabilities,

including tactical and military helicopters. Furthermore, the Secretary-General emphasized that any peacekeeping operation can be effective only if there is a credible peace process.

On 8 February, at its 5832nd meeting, the Council held a debate under the agenda item "Reports of the Secretary-General on the Sudan". At that meeting, the Council was briefed on the latest developments in the Darfur peace process by the Special Envoy of the Secretary-General for Darfur, Jan Eliasson. Mr. Eliasson underscored the need to negotiate a ceasefire to improve the security situation and create conditions conducive to a dialogue. At the same time, he reported that while the rebel groups had coalesced into five main groups, only two were actively participating in the consultation process. Nevertheless, the Joint Mediation Support Team would continue to consult the parties with a view to convening formal negotiations. The Council was also briefed by the Under-Secretary-General for Peacekeeping Operations, Jean-Marie Guéhenno, on the status of the deployment of UNAMID. Mr. Guéhenno stressed that the Mission's current capabilities were not sufficient to fulfil the expectations of the civilian population in Darfur. In addition, while there was significant progress in the negotiation of the status-of-forces agreement, there were still many issues to be resolved, such as visas and full freedom of movement for UNAMID.

The Sudan (United Nations Mission in the Sudan)

On 19 February, at its 5840th meeting, the Council was briefed by the Special Representative of the Secretary-General for the Sudan, Ashraf Qazi of Pakistan, on the progress in the implementation of the Comprehensive Peace Agreement between north and south Sudan. Mr. Qazi emphasized that while some progress had been achieved and the parties had been able to overcome their impasse through dialogue, progress towards many key implementation benchmarks still lagged. Mr. Qazi stressed that the lack of trust and confidence between the parties could potentially unravel the Comprehensive Peace Agreement. Immediately following the briefing, the members of the Council retired to consultations of the whole to continue discussions on the issue.

Western Sahara

On 4 February, the Personal Envoy of the Secretary-General for Western Sahara, Peter van Walsum, briefed the Council in consultations of the whole on the report of the Secretary-General on the status and progress of the negotiations on Western Sahara (S/2008/45). Mr. van Walsum highlighted the modest progress on the implementation of Security Council resolutions 1754 (2007) and 1783 (2007) after the third round of meetings of the parties, at the Greentree Estate in Manhasset, New York, from 7 to 9 January 2008. In their comments, and in a press statement (SC/9241) adopted during the consultations of the whole, Council members welcomed an agreement by the parties and States of the region to meet from 11 to 13 March 2008 in Manhasset, New York, in accordance with resolution 1783 (2007); supported the intention of the Personal Envoy of the Secretary-General for Western Sahara to travel to the region for in-depth consultations in preparation for the next round of talks; and welcomed the fact that the parties had reiterated their commitment to show political will and negotiate in good faith and had agreed on the need to move the process into a more intensive and substantive phase of negotiations under United Nations auspices. Council members also reaffirmed their

support for the efforts of the Secretary-General and his Personal Envoy to implement resolutions 1754 (2007) and 1783 (2007).

Asia

Non-proliferation

On 21 February, in consultations of the whole, under other matters, the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland presented a draft resolution on non-proliferation. The draft resolution proposed extending existing measures to encourage the compliance of the Islamic Republic of Iran with prior Security Council resolutions on its nuclear programme, and proposed new measures to the same end.

On 25 February, in consultations of the whole, under other matters, and again on 28 February, during consultations of the whole, Council members exchanged views on the draft resolution on non-proliferation. Members made comments and presented suggestions for improvement, and discussed the timetable for reaching a decision. Delegations expressed regret that mistrust between the parties and the lack of cooperation by the Islamic Republic of Iran on this issue had led to a new consideration of sanctions, and hoped that ongoing diplomatic efforts would soon bring positive results.

Timor-Leste

On 11 February, the Council held consultations of the whole on an emergency basis for a briefing by the Director of the Asia and Middle East Division of the Department of Peacekeeping Operations, Wolfgang Weisbrod-Weber, who reported on the attempts earlier that day on the lives of President José Ramos-Horta and Prime Minister Kay Rala Xanana Gusmão of Timor-Leste.

Immediately following those consultations, at its 5833rd meeting, the Council adopted presidential statement S/PRST/2008/5, in which it condemned the two attacks, which represented an assault on the legitimate institutions of Timor-Leste, and called upon the people and Government of Timor-Leste to remain calm and maintain stability in the country.

On 21 February, in a debate held at its 5843rd meeting, the Council was briefed by Jean-Marie Guéhenno, Under-Secretary-General for Peacekeeping Operations, on the report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (UNMIT) (S/2008/26) and the recent attacks. He stated that the security situation had remained calm throughout the country, including throughout the funeral ceremonies of the fugitive Alfredo Reinado and one of his accomplices, who had died during the attack on the President's residence. Mr. Guéhenno stressed that UNMIT would need to focus on the review and reform of the security sector, strengthening the rule of law, economic and social development and promoting a culture of democratic governance. He recalled the Secretary-General's recommendation for an extension of the UNMIT mandate for an additional 12 months at the current authorized levels and strength. The Council also heard from the Permanent Representative of Timor-Leste, Nelson Santos, who said that since taking office six months ago, the Government had made significant advances in its agenda to reform and develop the country by rebuilding institutions,

in particular the police and the judiciary. Timor-Leste recognized the invaluable contribution of the United Nations and the need for its continued and sustained presence.

On 25 February, at its 5844th meeting, the Council unanimously adopted resolution 1802 (2008), by which it extended the mandate of UNMIT until 26 February 2009 at the current authorized levels and urged all parties in Timor-Leste to continue to work together and engage in political dialogue and consolidate peace, democracy, rule of law, sustainable social and economic development and national reconciliation in the country.

Europe

Kosovo (resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999))

On 14 February, Council members met in consultations of the whole to set the format for a meeting on Kosovo that had been requested on an emergency basis and that would take place later that afternoon. Council members decided that the meeting would be a private debate in which only Council members and the delegation of Serbia would be able to intervene, though any Member State would be able to attend.

That afternoon, at its 5835th meeting, the Council held a private debate on an emergency basis to consider the latest developments in Kosovo, including actions by the Provisional Institutions of Self-Government of Kosovo in preparation for a unilateral declaration of independence. The Minister for Foreign Affairs of Serbia, Vuk Jeremić, said Serbia would never accept a unilateral declaration of independence by its province of Kosovo and warned of grave consequences that support for such a decision would have for the future of international relations and other similar situations. He requested that the members of the Council ensure that all provisions of resolution 1244 (1999) and the Charter of the United Nations were implemented in their totality, and argued that the Special Representative of the Secretary-General for Kosovo had the obligation to declare null and void any unilateral declaration of independence. Council members had differing views on the situation, but stressed the need for both sides to abide by their commitments to non-violence. The Council did not take any action on the matter.

On Sunday, 17 February, Council members met in emergency consultations of the whole to consider the unilateral declaration of independence adopted earlier that day by the Assembly of Kosovo and to decide on the format of a Council meeting to be held on 18 February, both at the request of the delegations of Serbia and the Russian Federation. The Secretary-General briefed the Council members on events surrounding the unilateral declaration of independence. He said that following the declaration there were no serious incidents of violence, that his fundamental responsibility was to maintain peace and security in the region and that he had urged the parties not to take actions that could threaten peace and security. He maintained that, barring a new Council decision, resolution 1244 (1999) would continue to be the legal framework for activities of the United Nations Interim Administration Mission in Kosovo. Council members agreed to hold a debate the next day, in which only the Secretary-General, Council members and the delegation of Serbia would speak. Any Member State that so requested would be able to attend.

On 18 February, at its 5839th meeting, the Council debated recent events in Serbia and Kosovo, including the unilateral declaration of independence adopted on 17 February by the Assembly of Kosovo. The Secretary-General and the President of Serbia, Boris Tadić, attended the meeting. The Secretary-General's statement was practically identical to his briefing to Council members in consultations of the whole the day before. President Tadić stated that the unilateral declaration of independence by the Serbian province of Kosovo was illegal and a violation of the territorial integrity of his country, and that Serbia would never recognize the independence of Kosovo. He asked the Secretary-General to instruct his Special Representative to annul the declaration and dissolve the Assembly of Kosovo. Council members' views on the situation differed, but they stressed the need for both sides to abide by their commitments to non-violence. The Council took no action on the matter.

On 21 February, in consultations of the whole, Council members considered and adopted a press statement (SC/9260) presented by the delegation of the United States of America regarding embassy attacks in Belgrade earlier that day. The members of the Council condemned mob attacks against embassies in Belgrade, which had resulted in damage to embassy premises and endangered diplomatic personnel. The members of the Council recalled the fundamental principle of the inviolability of diplomatic missions and the obligations on host Governments, including under the 1961 Vienna Convention on Diplomatic Relations, to take all appropriate steps to protect embassy premises. The members of the Council welcomed steps taken by the Serbian authorities to restore order and protect diplomatic property and personnel.

Middle East

The situation in the Middle East, including the Palestinian question

On 26 February, at its 5846th meeting, the Council was briefed by Robert Serry, United Nations Special Coordinator for the Middle East Peace Process, on recent developments regarding the situation in the Middle East, including the Palestinian question, and by John Holmes, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, on the worsening humanitarian situation in the Occupied Palestinian Territory. After the meeting, Council members retired to consultations of the whole to discuss those briefings. Council members exchanged views on the content of the briefings, and in particular expressed concern for the humanitarian crisis in Gaza and the daily rocket attacks from Gaza against Israeli civilians. The Council took no action on the matter.

Thematic issues

Children and armed conflict

On 12 February, at its 5834th meeting, the Council held an open debate presided over by the First Vice-President and Minister for Foreign Affairs of Panama, Samuel Lewis-Navarro, to consider the report of the Secretary-General on children and armed conflict (S/2007/757). The Council heard statements by the Special Representative of the Secretary-General for Children and Armed Conflict, Radhika Coomaraswamy; the Executive Director of the United Nations Children's

Fund, Ann Veneman; and the representative of Watchlist on Children and Armed Conflict, Jo Becker. Before concluding the meeting, the Council adopted presidential statement S/PRST/2008/6, in which it took note of the report, restated its commitment to implement monitoring and reporting mechanisms adopted in resolution 1612 (2005) within the framework of the working group established in that resolution and requested the Secretary-General to prepare a report on the implementation of the presidential statement, as well as other relevant resolutions and statements.

Other issues

International Tribunal for the Former Yugoslavia

On 20 February, at its 5841st meeting, the Council adopted resolution 1800 (2008), authorizing the Secretary-General to appoint, within existing resources, additional ad litem judges to the International Tribunal for the Former Yugoslavia, increasing the maximum from the current 12 provided for in the statute of the Tribunal to a maximum of 16 at any one time, returning to a maximum of 12 by 31 December 2008. In that resolution the Council also recalled that in its resolution 1503 (2003) of 28 August 2003 it had called upon the Tribunal to take all possible measures to complete all trial activities at first instance by the end of 2008 and to complete its work in 2010 (the Tribunal's completion strategy), and that in its resolution 1534 (2004) of 26 March 2004 it had emphasized the importance of fully implementing the Tribunal's completion strategy.

Terrorism and international peace and security

Attack in Kandahar

On 17 February, in consultations of the whole, under other matters, Council members considered and adopted a press statement (SC/9251) presented by the delegation of Italy on the suicide attack that day in the Afghan province of Kandahar. In the statement, the members of the Council condemned the attack, noting with dismay that it was one of the deadliest in Afghanistan in recent years and that it had targeted civilians, including children, and police officers. The members of the Council also expressed their condolences, underlined the need to bring perpetrators, organizers, financiers and sponsors of that reprehensible act of terrorism to justice and urged all States to cooperate actively with the Afghan authorities in that regard. The members of the Council reiterated their concern at the increasing threat to the local population, national security forces, international military and international assistance efforts posed by the Taliban, Al-Qaida, illegal armed groups, criminals and those involved in the narcotics trade.

United Nations S/2008/500

Security Council

Distr.: General
29 July 2008

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Identical letters dated 29 July 2008 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General and the President of the Security Council

Upon instructions from my Government I have the honour to transmit to you the statement made by Abdulbasit Sabdarat, Minister of Justice of the Republic of the Sudan, before the African Union Peace and Security Council in Addis Ababa, on Monday, 21 July 2008, in connection with the so-called application made by the Prosecutor of the International Criminal Court (see annex).

I would like to draw your kind attention to paragraph 13 of the statement.

I should be grateful if the present letter and its attachment were circulated as a document of the Security Council.

(*Signed*) Abdalmahmood Abdalhaleem **Mohamad**
Permanent Representative

08-44363 (E) 010808

Annex to the identical letters dated 29 July 2008 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General and the President of the Security Council

1. At the outset allow me to express the condolences of the Government and people of the Sudan to the governments, peoples and families of all the martyrs of African who lost their lives while performing their sacred duties in Darfur. The Sudanese people will never forget these sacrifices.

2. We are grateful to the sisterly States, members of this august body, for their prompt response and action to convene this urgent meeting of the PSC at ministerial level to consider the situation created as a result of the recent move by the ICC Prosecutor General, requesting the ICC Chambers to issue an arrest warrant against the President of the Republic of the Sudan for alleged crimes in Darfur including genocide. Surprisingly the allegations were spread by the ICC Prosecutor General to incriminate the entire apparatus of the state in the Sudan i.e. the dismantling of the whole political system in the country. You can judge of the real motivations of the ICC Prosecutor.

3. We have already noted with great esteem and appreciation the consultations initiated by the Chairperson of the AU Commission, H.E. Mr. Jean Ping, with the United Nations Secretary-General and other stakeholders including the Arab League and the Organization of the Islamic Conference regarding the developments and implications of the present situation.

4. We are also appreciative of the urgent visit taken by H.E. Ambassador Ramtane Lamamra, the African Union Commissioner for Peace and Security, to the Sudan during the period 14-15 July 2008 to meet with H.E. President Omer Hassan Ahmed el-Bashir and the other senior Sudanese officials, in an excellent step to address ways and means of holding preparatory consultations regarding actions needed to be taken to handle the situation. We shall always remain open to such initiatives.

5. You may not disagree with me that the action taken by the ICC Prosecutor sets a serious precedent in the history of international relations, and challenges the very strong convictions of all leaders of the world and the African leaders in particular as regards the prevalent concepts of sovereignty and immunity of Heads of State. It is an action that is based on false pretences, hearsay and is politically motivated and unjustified.

6. Before elaborating on the dangerous, unjustified and miscalculated move of the ICC Prosecutor General, I would like to refresh the memories of my distinguished brothers and sisters members of this Council about certain basic facts relating to the way in which the conflict in Darfur erupted:

6.1 The fighting in Darfur was originally initiated by the rebels in Darfur. They started targeting airports, banks, police stations, local government departments, and headquarters of major development schemes. Their attacks also extended to the properties of civilians in the outskirts of major cities, including using civilians as human shields to deter countermeasures by government law enforcement agencies.

6.2 The Government in the Sudan moved to arrest the problem acting within its constitutional prerogative. Its actions solely aimed at protecting law and order as well as the lives and properties of its citizens. What would the world look like if every action by the national authorities to keep law and order were subject to the kind of tests adopted by the ICC Prosecutor?

6.3 Unfortunately, the actions of the rebel groups led to more internal displacement to government-controlled areas and exodus of refugees to neighbouring countries. Most of the village burning and killings was carried out by the rebels and the spontaneous tribal resistance that suddenly erupted in wide areas in Darfur before the government forces were able to contain the situation.

6.4 In spite of the fact that the Government was able to contain the rebellion in Darfur, it has nonetheless positively reacted in good faith to all ceasefire initiatives and peace talks from Abéché, N'Djamena and Abuja to Sirte. The Government of the Sudan is still committed to peaceful settlement through negotiations. The fragmentation and splintering of the factions of rebels in Darfur and their refusal to negotiate remains the major obstacle facing our quest for peace until this very moment.

6.5 The multiple non-African external political vibes and interferences critically narrowed the opportunities for cessation of hostilities and a peaceful resolution of the problem in Darfur. These interferences have the hidden agenda of shifting the focus from the killings and human rights abuses in other areas. The recent move of the ICC Prosecutor provided an additional moral boost to those rebels from Darfur who savagely attacked our national capital Omdurman on 10 May 2008. This freshly given moral support will cause further deterioration in the security and humanitarian situation and cripple the political process stranded since the Sirte resumed round of talks. The chaos in an unstable Sudan will have a spillover effect throughout the region.

6.6 The fact that the ICC Prosecutor succumbed and acquiesced to political pressure is manifested in the leakage pronounced by the official circles of certain countries known for their hostility against the Sudan even before the Prosecutor officially announced his move to accuse the President of the Republic of the Sudan.

7. The most serious repercussions of such an action undermine, pre-empt and endanger the unfettered efforts made by the African Union, the United Nations and the Government of National Unity in the Sudan towards the peaceful resolution of the conflict in Darfur, the implementation of the Comprehensive Peace Agreement and the Eastern Sudan Peace Agreement. The ICC Prosecutor General had actually compromised the very obvious principles of international law, including the principle of complementarity enshrined in the Rome Statute of 1998 itself, to the vicious pressures pounded on him by certain western Governments and pressure groups.

8. Regrettably, the action of the ICC Prosecutor represents a flagrant intervention into the internal affairs of the Sudan in a very damaging way. It is a political move that would damage the achievements of peace and the democratic transformation in the Sudan. In addition to his stature as President of the Republic and a symbol of the sovereignty of the country, H.E. Omer Hassan Ahmed el-Bashir is in fact an indispensable guarantor of the three major peace accords in the Sudan, namely, the Comprehensive Peace Agreement, the Darfur Peace Agreement and the Eastern

Sudan Peace Agreement. All these accords are now part and parcel of the Interim Constitution of the Sudan 2005. Rejecting the action of the ICC Prosecutor in the strongest terms possible will eventually preserve the hard-won achievements of peace in the Sudan and the stability in the region and will not compromise our convictions and beliefs on the sensitive matters of sovereignty and immunity of Heads of State.

9. The Republic of the Sudan is not a party to the Statute of the International Criminal Court done at Rome on 17 July 1998 (the Rome Statute), and which entered into force on 1 July 2002. The ICC was designed to perform in accordance with the fundamental standards of due process and to pursue its entrusted duties with impartiality and effectiveness. It is important for the ICC as a nascent legal forum to independently apply justice in a fair and even-handed manner, thereby contributing to the creation of a solid international criminal justice system. As such, there is an apprehension that the Court must be shielded and protected from negative political influences and misunderstandings from powers and agencies external to it.

10. The preparatory works of the ICC Preparatory Commission reveal that many delegations have cautioned against giving a political entity the ability to influence the Court in a manner that would affect its independence. Unfortunately, the United Nations Security Council gave the first blow to the impartiality of the ICC. Its resolution 1422 (2002), adopted on 12 July 2002, stands as a clear manifestation of this serious flaw. Acting under Chapter VII of the Charter of the United Nations the Security Council requested that personnel from a contributing State not a party to the Rome Statute shall be exempted from the investigation or prosecution of the Court.

11. Against this background, Security Council resolution 1593 (2005) referring the situation in Darfur to the International Criminal Court was, and is by and large, influenced by political considerations. The issue of Darfur was originally brought to the table of the Security Council under the false pretences of threats to international peace and security, therefore giving those challenging the constitutional order in the country a political momentum. The resolution came within a series of resolutions aiming at putting pressure on the Government of the Sudan for various reasons. Some powers that were campaigning against the Sudan in the Council, such as the United States, were not genuinely interested in bringing about justice. On the contrary, they were known for their firm opposition to the Court.

12. The process of dragging the Sudan to the ICC began with the mandate given by the Security Council to the International Commission of Inquiry led by the Italian jurist Antonio Cassese. Antonio Cassese and his team visited the Sudan for a short period of time and came out with the desired political prescription to allegedly describe the judiciary in the Sudan as unable and unwilling to prosecute the perpetrators of the crimes alleged to have been committed in Darfur. The Security Council was in fact entrapped and misled by this statement, which was then the only prescription by which the Security Council could put pressure on the Sudan and refer the situation in Darfur to the jurisdiction of the ICC.

13. At the time resolution 1593 (2005) was adopted there were no means of constructive dialogue between the Sudan and the United Nations. The views of the Sudan on the contents of that resolution were not sufficiently heard or given the weight they deserve. That was the reason why the relationship between the Sudan

and the United Nations suffered many setbacks. It was only after the visit of Ban Ki-moon to the Sudan during 2007 that channels of constructive dialogue were established and positive results such as resolution 1769 (2007) and the deployment of UNAMID were possible.

14. Whether what happened in Darfur is genocide or not, I wish to refer you to some of the views of international legal experts and renowned politicians involved in the issue of Darfur and who were courageous enough to voice their understanding and opinion on the issue. The recent vindictive findings of the ICC Prosecutor contradict the letter and spirit of all these findings, namely:

14.1 Former President of Nigeria H.E. Olusegan Obasango outlined the African Union position in refuting genocide allegations, saying: "What we know is that there was an uprising, rebellion, and the government armed another group of people to stop that rebellion. That's what we know. that does not amount to genocide from our own reckoning".

14.2 The International Commission on Inquiry for Darfur chaired by the Italian jurist Antonio Cassese established by United Nations Security Council resolution 1564 (2004) reported to the Security Council itself, that "while there had been serious violations of human rights in Darfur, genocide had not occurred".

14.3 Mr. John Danforth, President Bush's former Special Envoy to the Sudan, said in an interview with the BBC in July 2005, that "the genocide label was something that was said for internal consumption within the United States".

14.4 Mr. Kofi Annan, the former United Nations Secretary-General, commenting on allegations of genocide in Darfur, noted: "I cannot call the killing genocide even though there have been massive violations of international humanitarian law." Even the ICC Prosecutor had cast doubt on the results of his own investigations when he admitted that "he has to investigate the situation in Darfur without going to Darfur for security reasons".

14.5 The ICC Prosecutor also outlined before the fifth Assembly of States Parties to the ICC held in The Hague in November 2006 the different types of crimes against humanity his investigations revealed in Darfur. Genocide was never among the counts discovered by the ICC Prosecutor through the investigations he had undertaken since his assumption of office. Surprisingly the ICC Prosecutor and despite all of the captioned quotations obstinately came up with allegations of genocide in Darfur. Even this Council has never taken the view that what is happening in Darfur is genocide.

15. Does the United Nations Security Council have the authority to make a State Member of the United Nations bound and subject to the provisions of an international treaty to which that Member State is not a party? It is true that Member States are bound to obey the Security Council resolutions in accordance with Article 25 of the Charter. But a Member State has the right to make its reservations if the decision taken by the Security Council contradicts the fundamental principles of international law. The important question that remains to be answered to the satisfaction of smaller or vulnerable members of the international community is: Does the Security Council really have the authority to make a State Member of the United Nations subject to treaties to which such a Member State is not a party? Does the Security Council have the right to abolish the sovereignty and independence of United Nations Member States?

16. The Sudan does not condone impunity and would prosecute crimes of all sorts. The Sudan is not governed by the law of the jungle. It is a responsible State with an independent judicial system. The principle of complementarity constitutes the core premise of the Court and gives primacy to national jurisdictions. Under the principle of complementarity, the ICC exercises its jurisdiction only when States parties, and naturally States under the jurisdiction of the Court by way of referral from the Security Council, fail to investigate or undertake judicial procedures in good faith, after a crime covered under the ICC Statute has been committed.

17. It is obvious, therefore, that the principle of complementarity triggers and comes into play the moment the State in question commences investigation or tries the case. Despite the reservations, the Government of the Sudan has begun an intensive process of consultation and cooperation with the Court and its Office of the Prosecutor. It is believed, then, that has been a wise decision by the Sudan to cooperate, nonetheless, with the Court and to seek at the same time invocation of the ICC principle of complementarity. The Sudan, at an earlier stage, opted to cooperate with the Court, because paragraph 2 of Security Council resolution 1593 (2005) required the Government of the Sudan to cooperate fully with, and provide information and necessary assistance to, the Court and the Prosecutor. Other States and organizations are also urged to cooperate fully.

18. The various delegations sent by the Court to the Sudan attest to the degree of cooperation extended by the Sudan. The ICC Prosecutor confirmed in his statement before the fifth Assembly of States Parties to the Rome Statute held in The Hague in November 2006 that the delegations sent by the Court to the Sudan were given the opportunity to put questions to the armed forces, meet representatives of local judicial and investigative mechanisms, including judges and prosecutors dealing with events in Darfur as well as measures taken by the Government for compensation. The Court has also had the opportunity to see, through the Office of the Prosecutor, how the judiciary in the Sudan enjoys a long-standing heritage of independence and integrity, to the extent of challenging any biased political conclusions. All this bright record of cooperation between the Sudan and the ICC had been trashed by the ICC Prosecutor unjustifiably.

19. The Government of the Sudan made the necessary amendments to its Penal Code and established Special Courts in order to investigate and try the alleged cases of violations of international humanitarian law in Darfur. The National Special Court for Darfur and the two subregional Courts in Genaina and Nyala are a clear manifestation of the will and ability of the Sudan to fight impunity. The National Special Court and other prosecutor teams in the Sudan have not yet finished their work due to the fact that suspects as well as witnesses could not be fully accessed under the current prevailing conditions in Darfur.

20. The Government of the Sudan is sparing no effort in its continuing endeavours to establish the rule of law and justice through the mechanisms set up in the Darfur Peace Agreement. This effort will, in due course, be combined with activation of the widely accepted traditional mechanisms of dispute settlement. Practical steps are being taken in the direction of launching the Darfur-Darfur Dialogue which will eventually trigger the traditional mechanisms of dispute settlement. All these measures would positively contribute to the sustainability of peace in Darfur, which is the only concrete reality that brings justice and stability.

21. The Prosecutor said before the fifth Assembly of States Parties to the ICC held in The Hague in November 2006 that, due to the adverse security situation in Darfur "he had to investigate the situation in Darfur without going to Darfur"! This casts a heavy shadow on the finality of the investigations as well as the interviews conducted by the Office of the Prosecutor for a number of reasons, among which is the evidential weight and value of what he had heard from witnesses without going to Darfur. Those witnesses who actually belong to the ranks of the rebels in Darfur have constantly been coached, groomed and prepared for that purpose by many of the hostile pressure groups spearheading the political campaign against the Sudan.

22. Fortunately, after the recent developments, international policymakers have come to realize that the "Prosecutor's legal strategy also poses major risks for the fragile peace and security environment in the Sudan, with a real chance of greatly increasing the suffering of very large numbers of its people ...". In their view, the significant risks resulting from the ICC Prosecutor's unruly action will be: "Undermining the fragile North-South peace process, bring an end to any chance of political negotiations in Darfur, make impossible the effective deployment of UNAMID, put at risk the humanitarian relief operations presently keeping alive over 2 million people in Darfur, and lead to inflammation of wider regional tensions."

23. The realization of peace and order in Darfur is a precondition for the service of justice in that troubled region. Justice is required in Darfur in order to restore the social texture which is damaged by reason of internal and external factors, but such a restoration cannot take place without first achieving peace. What is badly needed in such a complex situation is to have sustainable peace and an agreeable framework within which the occurring damage could be repaired.

24. The paradigm of peace and that of justice would presumably accommodate the "interest of the victims" in a given conflict situation. In Darfur, for example, the interest of the victims should be taken into account regarding whether the ICC should proceed to prosecute those responsible for the alleged crimes or make way for the civil society forces in Darfur to say their word and to state their priorities.

25. The conceived idea of the Darfur-Darfur Dialogue Conference could represent an acceptable forum for all parties concerned, including the victims, to say their word about the way forward: whether they prefer prosecutions to take place forthwith, or re-stitch the social texture by agreeing to peace first and thereafter consider how to deal with the outstanding issues according to recognized practice, including a developed concept of reparation to the victims. Focusing only on absolute justice outside the domestic framework could be detrimental and costly without a guarantee that the process will result in sustainable peace. A huge force, expense and political cost may be needed to serve justice blindly without any assurance that the result achieved justifies the effort. What is needed is a process through which human rights can be promoted and sustainable peace realized.

26. The vicious dreams of the perpetrators behind the ICC Prosecutor in destabilizing the Sudan and undermining the peace and democratic transformation achievements in the Sudan will not come true. The Sudan is utterly committed to the agreements and bonds so far reached regarding the Comprehensive Peace Agreement and the roadmap to peace in Darfur. However, and in order to achieve our desired noble goals, we need to be united on the face of this new wave of imperialism and hegemony. The Sudan, one of the early founding members of this

Organization, and one of the strong supporters of the Pan-African movement, shall not be made the Achilles heel of Africa, through which neocolonialism will re-scramble into our continent. The Sudan has always opted for an African solution under the umbrella of the African Union.

27. To conclude, the move of the ICC Prosecutor raises other serious considerations. There have been as many failures as successes, perhaps more, in the international protective record in recent years. There are continuing fears about a "right to intervene" being formally acknowledged. If intervention for human protection purposes is to be accepted, including the possibility of military action or an indictment of an incumbent Head of State, it remains imperative that the international community develop consistent, credible and enforceable standards to guide state and intergovernmental practice. This provides a clear indication that the tools, devices and thinking of international relations need now to be comprehensively reassessed, in order to meet the foreseeable needs of the twenty-first century.

28. The manipulations of the ICC Prosecutor are intended to hamper the African Union initiatives, represented by this Council. My Government remains committed and open to African initiatives and solutions. We welcome and look forward to cooperate with the newly appointed joint negotiator Mr. Djibril Bassolé. Therefore, my Government of National Unity solicits the indulgence of this honourable Council to strongly condemn and reject the recent step and the unfounded accusations made by the ICC Prosecutor General, to reaffirm the decision of the AU Summit of Sharm el-Sheikh concerning the sovereignty of States, immunity of Heads of State and double standards, to call upon the Security Council to immediately halt the process before the ICC and give full effect to the principle of complementarity so that the Sudanese judicial system can be supported to fully assume its role without hindrances, and that the focus shall be given to the political solution of the conflict in Darfur by creating a conducive atmosphere for the newly appointed joint chief negotiator, all in full coordination with the regional and international entities in that regard.

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Report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (for the period from 8 January to 8 July 2008)

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1802 (2008), by which the Council extended the mandate of the United Nations Integrated Mission in Timor-Leste (UNMIT) until 26 February 2009. It covers major developments in Timor-Leste and the implementation of the Mission's mandate since my report of 17 January 2008 (S/2008/26).

2. As at 8 July 2008, UNMIT consisted of a civilian component comprising 319 international staff (117 women); 846 national staff (147 women); 1,542 police officers (76 women); and 33 military liaison and staff officers (all men). My Special Representative, Atul Khare, continued to lead the Mission and to coordinate with United Nations system actors and other stakeholders. He was assisted by the Deputy Special Representative for Governance Support, Development and Humanitarian Coordination, Finn Reske-Nielsen.

II. Political and security developments since January 2008

3. The deplorable events of 11 February and the response thereto dominated the political and security environment over the reporting period. On that day, the armed group led by the fugitive Alfredo Reinado, the former Military Police Commander of the Falintil-Forças de Defesa de Timor-Leste (F-FDTL), carried out separate armed attacks against the President, José Ramos-Horta, and the Prime Minister, Kay Rala Xanana Gusmão, resulting in the nearly fatal injury of the President and the death of Reinado. Rapid medical intervention, in Dili and, subsequently, in Australia saved the life of the President.

4. The incidents presented an unexpected and serious challenge to State institutions, but encouragingly, and in contrast to the events of 2006, the situation did not precipitate a crisis destabilizing the entire society. The institutions of the State responded in an appropriate and responsible manner that respected constitutional procedures. The Prime Minister demonstrated firm and reasoned leadership; the Parliament functioned effectively as a forum for debate in response to the events; and leaders of all political parties urged their supporters to remain

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calm, while the general population demonstrated faith in the ability of the State to deal with the situation. The Office of the Prosecutor-General started a criminal investigation immediately after the attacks. On 20 February, the Parliament approved a resolution recommending that the Government negotiate with the United Nations for the formation of an international commission to investigate the events of 11 February. On 27 May, the Prime Minister responded, suggesting that the Parliament consider reformulating the resolution to prevent any duplication with ongoing national criminal investigations.

5. Following the attacks, the Parliament immediately declared a state of siege with curfews across the entire country. On 17 February, the Council of Ministers approved a resolution mandating the Commander of F-FDTL to create a Joint Command integrating members of F-FDTL and the Polícia Nacional de Timor-Leste for security operations conducted during the state of siege. As the security situation remained calm, the state of siege was gradually reduced in geographic scope and degree across the country. By 23 April, the state of siege applied only to Ermera District, where the President's attackers had gathered, led at that point by an associate of Reinado, Gastão Salsinha. The state of siege in Ermera District expired on 22 May, ending also the legal basis for the Joint Command, which was formally revoked by the Council of Ministers on 4 June and disbanded on 19 June.

6. Creating the Joint Command was an understandable response to the events of 11 February, and contributed to the surrender of Reinado's associates (see para. 16 below). However, the well-known shortcomings of the security institutions in terms of professional standards and respect for the rule of law, which were at the heart of the UNMIT mandate, became evident once again. The Provedor for Human Rights and Justice opened investigations into 44 cases of violations allegedly committed in areas of Joint Command operations (see para. 29 below). While the number of reported human rights violations and abuses of authority declined in the latter part of the state of siege, indicating that some efforts were being made to minimize them, little progress has been evident in investigating or assigning accountability for the violations committed during the early phase of the state of siege, and the team established by the Joint Command responsible for such investigations has been disbanded along with the Joint Command. The Government has indicated its commitment to addressing these shortcomings, which it sees as long-term challenges. Nevertheless, the risk remains, that, in the meantime, those incidents will further entrench inappropriate modes of behaviour and the already widespread perception that the security and defence forces enjoy impunity.

7. The death of Reinado, who had played a significant role in the intractability of the issues of the F-FDTL "petitioners" (see S/2008/26, para. 6) and the internally displaced persons, opened up new possibilities for addressing these two remaining consequences of the crisis of 2006. In response to a call from the Government to gather for a dialogue, on 8 February, a small number of petitioners had begun arriving at a camp in Aitarak Laran, Dili. After the attacks of 11 February, the rate of arrivals accelerated, reaching 709 by the end of May. On 4 June, the Government adopted a legislative decree that offered financial compensation packages for those petitioners who decided to return to civilian life, who are the great majority. While the underlying grievances which sparked the original desertion by the petitioners, and eventually culminated in the 2006 crisis, are yet to be addressed, the packages agreed to by the petitioners are a positive development. By the beginning of March,

returns of internally displaced persons had also markedly accelerated (see para. 45 below).

A. Support for dialogue and reconciliation

8. In response to the events of 11 February, the dialogue and coordination mechanisms already established by the Government and UNMIT again proved effective. On the morning of 11 February, the Government, UNMIT and the international security forces met in an emergency Trilateral Coordination Forum meeting (see S/2007/50, para. 40; S/2007/513, para. 27; and S/2008/26, para. 10) convened by the Prime Minister to coordinate security measures. Upon his return to Dili from New York, the very next day, my Special Representative also conducted intensive good offices efforts with a wide variety of actors including the Prime Minister, the Acting President, Fernando "Lasama" de Araújo, the diplomatic community, and political parties. Those efforts were important to ensure information-sharing, to reinforce unity among political actors, and to coordinate security and political matters. They also served the broader purpose of encouraging good democratic governance practices, including decision-making based on institutionally developed policies and planning. My Special Representative also urged participatory policy formulation processes in which the views of the opposition and civil society could be reflected.

9. During the reporting period, three meetings of the High-level Coordination Committee (including one expanded meeting with members of the Superior Council for Defence and Security, the Council of State, and the President and Secretary-General of the Frente Revolucionária do Timor-Leste Independente (Fretilin)) and nine meetings of the Trilateral Coordination Forum were held. In addition, my Special Representative continued to call monthly meetings (five during the reporting period) with representatives of all political parties, including those without parliamentary representation. At the meeting held on 14 February, the parties unanimously condemned the attacks against the President and the Prime Minister. My Special Representative also continued his weekly meetings with the President (or, in his absence, the Acting President) and the Prime Minister, and his regular meetings with the President of Parliament. My Deputy Special Representative continued his weekly meetings with the Deputy Prime Minister, an important opportunity to coordinate efforts in support of national recovery strategies.

10. On 23 April, in his first major public address after his return to Timor-Leste, the President emphasized the importance of dialogue and utilizing the experiences and skills of all Timorese leaders to address issues of national concern. He specifically called on the Government to work together with Fretilin as "the party with the most votes". Expanded meetings of the High-level Coordination Committee (see para. 9 above), now including the Fretilin leadership, are a constructive step towards gaining a broad national consensus on major issues facing the country. My Special Representative has continued to facilitate and support such inclusive approaches, and maintains weekly meetings with the Secretary-General of Fretilin. The President has demonstrated his commitment to dialogue at all levels, participating in three community dialogues in Dili in support of the reintegration of internally displaced persons.

11. Encouragingly, Fretilin has continued to play an important role as an engaged and active opposition within the Parliament, whose legitimacy it acknowledges. It does, however, continue to label the Government, formed by the Aliança com Maioria Parlamentar (AMP) led by the Prime Minister, as an unconstitutional "de facto government" (see S/2007/513, para. 4). The overtures made by Fretilin to the Associação Social-Democrata Timorense (ASDT), a member of the AMP coalition, to form an alliance, did not succeed in the end in weakening the coalition, but contributed to plunging ASDT into a public leadership battle. While the AMP coalition appears to be stable at least over the short- or medium-term, this experience illustrates the fragilities sometimes inherent in a coalition government, which are even more pronounced in a young, multi-party democracy such as Timor-Leste.

B. Enhancing democratic governance

12. In addition to the good offices efforts of my Special Representative, UNMIT and the United Nations country team continued to support undertakings to enhance a culture of democratic governance through increasing citizen participation, improving accountability mechanisms, strengthening parliamentary oversight functions, and supporting the media, among other activities. The United Nations Development Programme (UNDP) continued to provide assistance, including in-house training and other activities to strengthen institutional capacity, to political parties, through four district Resource Centres, and to the two electoral management bodies. On 11 April, UNMIT and the United Nations country team, together with the Government, organized a national workshop on democratic governance with the participation of the entire leadership of Timor-Leste, which played an important role in setting the agenda for the democratization process. Gender mainstreaming of Government policies was strengthened with the approval by the Council of Ministers on 19 March of the legislative decree on the structure of the Secretariat of State for the Promotion of Equality and a resolution establishing gender focal points across the ministries. In addition, the Council of Ministers approved and submitted the initial report of Timor-Leste on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, assisted and facilitated by the United Nations Development Fund for Women (UNIFEM).

13. Even before the announcement by the Prime Minister on 8 May of the "Year of Administrative Reform", UNMIT and UNDP had been providing policy advice to the Government as it set out frameworks to establish a civil service commission, reformulate the office of the Inspector General to perform audit functions, and establish an anti-corruption agency. UNDP efforts have continued in support of capacity-building related to procedural and legislative processes within the Parliament. UNDP, UNIFEM, UNMIT and the Secretary of State for the Promotion of Equality supported the parliamentary women's caucus in the development of a five-year (2008-2012) plan to mainstream gender in the work of the national Parliament. In recognition of the fact that the vast majority of the people of Timor-Leste receive news through the radio, UNMIT is supporting the national broadcaster in the installation of a transmitter, which is expected to increase radio coverage in the country from the current 60 per cent to more than 80 per cent of the territory. UNMIT also continued community outreach programmes; training of journalists, producers, and technicians; and the production and co-production of radio

programmes to provide information to the people of Timor-Leste and support capacity development.

C. Maintenance of public security

14. UNMIT police strength stayed about the same during this reporting period, with 1,542 officers (76 women) as at 8 July. Of these, 963 officers (including 140 in the Malaysian formed police unit, 140 in the Portuguese formed police unit, 38 in the Pakistani formed police unit, and 31 in the Bangladeshi formed police unit) were deployed in Dili and 579 to other districts, including 109 in the Bangladeshi unit (89 in Baucau and 20 in Viqueque) and 102 in the Pakistani unit (25 in Ermera and 77 in Bobonaro). They continued to perform the mandated task of interim law enforcement, while increasing efforts to support the training, institutional development and strengthening of the national police.

15. In order to ensure that the mandated responsibilities of UNMIT police under Security Council resolution 1704 (2006) and the "Policing Arrangement" (see S/2007/50, para. 33) were not adversely affected by the modalities of the Joint Command (see para. 5 above), my Special Representative confirmed in an exchange of letters with the Prime Minister on 21 February that those national police officers participating in Joint Command operations would not be under the direct supervision and responsibility of the UNMIT Police Commissioner. In practice, however, UNMIT police were not informed when and for how long individual officers would be participating in Joint Command operations, creating difficulties for the certification process and operational planning. Nevertheless, the redoubled efforts of UNMIT police and those national police officers who remained under UNMIT command after 11 February contributed significantly to maintaining a secure environment. International security forces also played a critical role in this regard, including through support to the police.

16. The Joint Command applied various measures to pressure Salsinha and other associates of Reinado to surrender. It generally abided by its rules of engagement which allowed it to fire only in self-defence; one death was attributable to the use of firearms by the Command. In addition, the State pursued dialogue through various national and district level interlocutors to convince Salsinha to surrender peacefully. The combination of those efforts led to the surrender of Salsinha and 12 members of his group on 29 April. As of early July, a total of 27 suspects related to the attacks of 11 February had been identified, 23 of whom remain in pre-trial detention.

17. Generally, cooperation between UNMIT police and the Joint Command on operational matters was satisfactory, but there were some worrisome incidents relating to the transport and treatment of suspects and prisoners. On 27 February, a suspect from the enclave district of Oecussi was brought to Dili under UNMIT police escort. At the helipad in Dili, about a dozen F-FDTL members armed with long-barrelled weapons forced UNMIT police to hand over the suspect. On 28 February, F-FDTL elements arrested a man for allegedly throwing a stone at their vehicle and brought the suspect to the Dili Police Watch House where, shortly afterwards, members of the Joint Command arrived and beat up the suspect, levelling firearms at an UNMIT police officer when he tried to prevent the assault.

18. In its activities in Ermera District directly aimed at obtaining Salsinha's surrender during the state of siege, the Joint Command had a clearly defined internal

security role. However, in areas outside of Ermera where a state of siege no longer applied, F-FDTL and the national police took on additional internal security functions and duties that were not coordinated with UNMIT police. Those activities continued without legal basis after the end of the state of siege on 22 May, even though the Prime Minister agreed with my Special Representative that the Joint Command had no operational role after the end of the state of siege. For example, for several days starting on 5 June, F-FDTL conducted night patrols in Dili, deploying three six-man armed squads reportedly to deter fighting between martial arts groups. Activities initiated by the Joint Command continued even after the Command itself was disbanded on 19 June. As at 8 July, 23 static security posts, originally established by the Joint Command, were still in neighbourhoods scattered across Dili staffed with 258 national police officers who do not report through the normal police command structure led by the UNMIT Police Commissioner.

19. After 11 February, the overall security situation quickly returned to normal. Most of the incidents reported were assaults and disorderly behaviour, and were promptly attended to by the police. During the reporting period, an average of 34 incidents was reported per week, far lower than the average of 54 during the last reporting period. The incidence of serious crimes such as murder, abduction and rape also decreased, from about five per month during the previous reporting period to about four in the current period. This positive trend is due in large part to the UNMIT and national police approach of targeted patrolling of problem areas, special attention being given to areas identified as particularly volatile, as well as to the restrictions on movements imposed by the curfews. The presence and activities of UNMIT military liaison officers in the border districts provided a stabilizing effect and contributed to maintaining good relations between the border agencies of Timor-Leste and Indonesia. Military liaison officers also played an efficient information-gathering role on issues affecting security throughout all the other districts.

D. Training, institutional development and strengthening of the national police

20. Considerable progress has been made in the registration, screening and certification programme for the national police, which continued to proceed in accordance with the Policing Arrangement. In June, provisional certification ended: a total of 3,114 officers (570 women) were assessed as suitable to be provisionally certified. Of those officers, 599 (126 women) became fully certified officers. All remaining officers are in different stages of the mentoring programme, except the 242 (11 women) found with integrity issues requiring adjudication by the Timorese-led Evaluation Panel, and 117 officers (10 women) who were recruits during the crisis of April and May 2006 and need to go back to the Academy for basic training. The certification process experienced delays as the new Evaluation Panel established after the formation of the new Government was not meeting; the Panel resumed its meetings under the chairmanship of the Deputy Prosecutor-General in February 2008.

21. As indicated in my previous report (S/2008/26, para. 58), in mid-March an expert mission led by the United Nations Police Adviser visited the country and issued a report that made comprehensive recommendations (see S/2008/329) on policing and broader rule of law and security sector reform issues. Subsequently, at

the request of my Special Representative, members of the Standing Police Capacity of the Department of Peacekeeping Operations, with support from the International Center for Transitional Justice, were deployed to UNMIT for eight weeks starting on 23 May to assist with the implementation of the expert mission's recommendations. With this support, strategies were developed in close consultation with the Secretary of State for Security and the national police to establish a timetable for the national police's resumption of policing responsibilities. This would be based on the three phases of reconstitution described in the Policing Arrangement, recognizing that the initial phase has been completed. During the second, consolidation phase, initial planning envisages that there will be a gradual resumption of policing responsibilities by the national police in specified districts and units starting in August 2008, to be completed in the first half of 2009. The calendar for the resumption of responsibility was developed by UNMIT in close consultation with the leadership of the national police and the Timorese Government. It will be adjusted by carefully assessing the state of readiness of the national police using five criteria: (a) the security environment; (b) staffing levels of certified officers; (c) the availability of initial operational logistical requirements; (d) institutional stability; and (e) mutual respect between F-FDTL and the national police.

22. Challenges to the mentoring process continued during this reporting period (see S/2008/26, para. 22). Some national police officers continued to resist supervision by UNMIT police; the participation of large numbers of national police officers in the Joint Command removed from UNMIT police supervision exacerbated this trend. The resumption of responsibility by the national police will be facilitated through a revised and streamlined mentoring programme, with mandatory training focusing on core competencies, developed and implemented jointly by UNMIT police and national police officers. This should allow final certification of 80 per cent of the national police by 1 October 2008. Before full reconstitution is completed, all officers with major disciplinary and/or criminal issues should be removed from the force and only certified officers should serve.

23. The resumption of responsibilities does not mean that the national police has successfully completed its development, nor that it is prepared to take on those responsibilities without continuing international assistance. Rather, it is another, more intensive phase of its professional development, where officers will learn by doing, while the United Nations is still available in strength to provide them with support and backup. It will lay the groundwork for the long-term process of developing an impartial and professional police service. It is, therefore, not proposed that the UNMIT police draw down their presence during the resumption of responsibilities by the national police. Rather, the UNMIT police will continue to play a crucial role of monitoring and reporting from all districts, while also being available to provide advice, as well as offer operational support and, in extremis, assume interim law enforcement responsibilities, if required and requested. The continued presence of the four formed police units will provide necessary support to UNMIT and the national police in the maintenance of stability.

24. The ultimate success of the police reform process will depend on the commitment of the national police and the Government, as well as the wider international community, in particular concerted and long-term bilateral programmes of training and institutional development, such as the one planned by the Australian Federal Police through its Timor-Leste Police Development Programme.

E. Institutional strengthening and comprehensive review of the security sector

25. In May, Parliament adopted the Law on Information Systems, which broadly defines Timor-Leste's intelligence architecture. The bill gives the head of the National Information Service authority over the intelligence branches of the military and the police. In addition, the Council of Ministers approved a legislative decree on the organization of the Ministry of Defence and Security, which further defines the roles and responsibilities of that Ministry.

26. Despite these developments, the issues surrounding the operations of the Joint Command illustrate the need for a holistic, deliberate approach to the development of the security sector, to ensure a clear separation of internal and external security roles and responsibilities between the national police and F-FDTL, to strengthen legal frameworks, and to enhance civilian oversight mechanisms. The security sector review process already under way will provide valuable inputs into these policy issues. The centrepiece of the review is the security sector review project signed on 13 June by the Prime Minister and my Deputy Special Representative in his capacity as the UNDP Resident Representative. The document specifies the United Nations support that will be provided for a comprehensive evaluation of the security sector. During the reporting period, UNMIT also supported a government-led process of developing a national security policy. UNMIT will continue to work closely with the Government, including the three-tier coordination mechanism established in August 2007 (see S/2008/26, para. 27), to address the broader challenges in the security sector.

III. Promotion of human rights and administration of justice

A. Support for monitoring, promotion and protection of human rights

27. The attacks of 11 February and the subsequent declaration of a state of siege presented challenges to the respect for human rights. On the positive side, the Government adhered to constitutional provisions when declaring the state of siege. Restrictions defined in relevant legislation on the right to movement, and on freedom to demonstrate and assemble, and provisions for members of the military to conduct home searches at night with judicial warrants did not violate Timor-Leste's international obligations. Serious concerns arose, however, concerning an increase in allegations of ill-treatment, excessive use of force and intimidation, in particular during arrest, by members of the Joint Command. UNMIT also received reports of death threats, illegal arrests, illegal home searches and abuse of authority. UNMIT regularly provided information on cases of alleged human rights violations or abuse of power to the appropriate Timorese authorities up to the highest levels. Accountability mechanisms were extremely weak, however; even when identified, perpetrators often faced only a verbal reprimand, including in cases of serious beatings.

28. Gender-based violence remained a major human rights concern. Cases were frequently "resolved" through traditional dispute resolution mechanisms, which were not always victim-centred and were not regulated by a legal framework. United Nations agencies are providing a range of support to address gender-based

violence at national and local levels, including preparation of a training manual in Tetum on domestic violence, support to the national campaign for men to end violence against women, mapping of gender-based violence cases, and capacity-building of local authorities and communities on ways to handle such cases. In addition, United Nations agencies made efforts to encourage women to participate in conflict mediation and conflict resolution activities in the community.

29. Initiatives to strengthen the capacity of the Office of the Provedor for Human Rights and Justice continued through a joint project of UNDP and the Office of the United Nations High Commissioner for Human Rights (OHCHR). From January to June, activities included daily mentoring of the investigation, monitoring and education and promotion departments; specific human rights training; a workshop on complaints management; briefings on relevant human rights issues, including on persons with disabilities; the establishment of national inquiries and human rights education; and advice to the Provedor in relation to the state of siege. UNIFEM provided training to the Provedor on the Convention on the Elimination of All Forms of Discrimination against Women, with specific focus on gender-based violence. During the state of siege, the Provedor conducted joint monitoring visits to areas of Joint Command operations, with representatives of UNMIT and the local non-governmental organization, the HAK Foundation, to document violations, resulting in the tabling of three reports to Parliament by the Provedor. By 1 July, the Office of the Provedor had opened investigations into 44 cases.

30. Some progress was also made towards holding accountable those responsible for criminal acts and human rights violations during the crisis of 2006, as recommended by the Independent Special Commission of Inquiry, although informal discussions on an amnesty law continue. An international prosecutor funded by OHCHR has been recruited to assist the Office of the Prosecutor-General to follow up on the recommendations of the Commission of Inquiry. However, a presidential decree on 20 May providing pardons and commutations of sentence to 94 sentenced individuals, while legal, was considered by many as undermining efforts to promote accountability and justice and combat impunity. The former Minister of the Interior, Rogério Lobato, who had been sentenced to seven-and-a-half years' imprisonment for his role in the 2006 crisis (S/2007/513, para. 30), and who in August 2007 had been permitted to travel to Malaysia to receive medical treatment and has yet to return, was granted conditional release early in June after his sentence was commuted. Nine inmates serving sentences for crimes against humanity committed in 1999 also received commutations of their sentence. Four of them were released in June, and four others will be eligible for conditional release by the end of October 2008. Also of concern is that four soldiers convicted of manslaughter in the shooting deaths of eight policemen in 2006 (S/2008/26, para. 30) have yet to be incarcerated in a civilian jail and continue to evade any serious detention. The four F-FDTL officers are suspended from duty and continue to receive full wages, yet have not paid compensation to the widows of their victims as ordered by the Court as part of their sentence.

31. On 12 February 2008 an agreement was signed giving UNMIT access to the archives of the former Serious Crimes Unit, which had been handed over to the Prosecutor-General's Office in 2005. UNMIT prepared detailed inventories and analysis of sources available in the Office of the Prosecutor-General, comprising 458 case files of ongoing investigations into cases of serious human rights

violations committed in 1999, other documents, physical and forensic evidence, and DNA samples. Since then UNMIT has completed investigations into 20 cases.

32. UNMIT continues to strongly promote and enforce its zero-tolerance policy on sexual exploitation and abuse and the need to maintain the highest standards of integrity and discipline. UNMIT continued to provide training to all categories of United Nations personnel, including national officers, in the prevention of sexual exploitation and abuse and in other conduct and discipline issues, while awareness programmes were made available in Dili and all regional offices. Monitoring and review of off-limit locations continued on a monthly basis. During the reporting period, one case of alleged sexual exploitation was reported, and it is currently being investigated by the Office of Internal Oversight Services. In addition to the HIV/AIDS session included in the Mission's induction course, UNMIT also began mandatory HIV/AIDS basic training in March. A total of 1,129 civilian staff (267 women) received the HIV/AIDS induction training, 395 civilian staff (126 women) received mandatory basic training, and 24 civilian staff (13 women) received peer educator training.

B. Support for capacity-building and strengthening of the justice system

33. The Government continues to focus on key pieces of legislation, two of particular importance being the criminal code and the law against domestic violence. The draft of the law against domestic violence is being finalized by a team of national and international legal experts and will be presented to Parliament upon approval of the criminal code. UNMIT, together with the United Nations Children's Fund (UNICEF), assisted the national authorities in the adoption and implementation of a juvenile justice strategy. UNICEF also supported the Government's efforts to monitor and report on the status of implementation of the Convention on the Rights of the Child to the Committee on the Rights of the Child.

34. Capacity development of judiciary personnel continues. On 14 March, 10 national court actors (including three women) were sworn in as probationary judges, prosecutors and public defenders. The probationary actors are receiving on-the-job training and mentoring from international and national mentors for a one-year period, after which they will be evaluated and sworn in. These jurists are students from the second training course at the Legal Training Centre who completed their classroom training in December 2007 (see S/2008/26, para. 37). The third postgraduate course at the Legal Training Centre started in July. UNMIT reviewed existing training curricula and materials for judges, public defenders, prosecutors and police officers and continues its efforts to advocate for inclusion of additional sessions on child rights and juvenile justice at the Legal Training Centre and police training institutions. In spite of an increase in human resources, the backlog of cases continued to grow; it is currently estimated at 4,700 criminal cases, of which approximately one third involve gender-based crimes. The United Nations Justice Working Group submitted recommendations to the Prosecutor-General on improving the effectiveness of the working relationship between the police and the Prosecutor's Office, which is vital to initiating and prosecuting cases in the formal legal system properly.

35. UNDP and UNMIT continue to coordinate support to the Government in the area of corrections. A new training centre at Becora Prison, made possible with assistance from the Governments of Australia and Portugal and supported by UNDP, opened on 6 June. A newly established team of seven national officers (two of them women) is conducting training for prison staff to strengthen professional skills.

IV. Support for the "compact", socio-economic development and humanitarian assistance

A. Support for the "compact" process

36. Following the endorsement by the Council of Ministers of the "compact" document in October 2007 (see S/2008/26, para. 43), the Government began preparation for the first Timor-Leste development partners meeting since the 2006 crisis. The meeting, held from 27 to 29 March 2008, brought together approximately 350 representatives of bilateral and multilateral donors; United Nations agencies, funds and programmes; the Parliament and ministries; as well as civil society, the private sector and the media. During the meeting, organized with support from the United Nations and the World Bank, the Government launched the national priorities for 2008, which constitute the international compact for Timor-Leste.

37. The national priorities for 2008 are (a) public safety and security; (b) social protection and solidarity; (c) addressing the needs of youth; (d) employment and income-generation; (e) improving social service delivery; and (f) clean and effective government. The Prime Minister assigned responsibility for monitoring progress on the national priorities for 2008 to the Inter-Ministerial Committee on Economic Development. The Government is monitoring the progress in meeting the objectives set out in the national priorities for 2008 through a system of working groups jointly agreed upon by the Government and the international community. UNMIT and the World Bank are providing expertise for the functioning of the national priorities secretariat, and the World Bank has sponsored an independent peer review team to provide external review of the process.

B. Socio-economic development

38. Despite the best efforts of the Government and its partners, Timor-Leste has not experienced significant progress in poverty alleviation or in the achievement of the Millennium Development Goals since the restoration of its independence in 2002. Per capita income in the non-oil economy is about 20 per cent lower than it was in 2002, implying that poverty is increasing. Public investments need to increase in the non-oil-and-gas sectors if the economy is to experience real growth over the next several years. Some of this investment could well come from the Petroleum Fund. Taking the low level of budget execution into consideration and without changing the fundamental operation or sustainability of the Fund, ways of "front-loading" expenditures from the Petroleum Fund to help promote sustainable economic growth and alleviate poverty need to be considered. UNMIT and its United Nations partners have been advocating a prudent, sustainable approach to the management of Timor-Leste's petroleum wealth, within the framework of a Government-led poverty reduction programme.

39. In the semi-annual budget review in July, the Government proposed to the Parliament a supplementary allocation which would increase the total 2008 budget from $347.8 million to $773.3 million. This includes $240 million for an economic stabilization fund to mitigate potential domestic problems resulting from global price increases. Meanwhile, Timor-Leste's oil revenues have been increasing as a result of the continuing increase in the price of oil, leading the Government to review the estimated sustainable income of the Petroleum Fund, bearing in mind current capacity constraints that affect budget execution. It may therefore be necessary for the Government to consider outsourcing in key areas where capacities are lacking. In addition, the Government would need to vigorously promote public works and infrastructure development in order to generate more job opportunities as its capital expenditure has been very low.

40. The United Nations country team completed the United Nations Development Assistance Framework in March, in an integrated manner between the United Nations agencies and UNMIT, so as to promote the "Delivering as One" agenda in Timor-Leste. Covering the period 2009-2013, the framework aims to support the consolidation of peace and stability through (a) democratization and social cohesion, including State-building, security and justice; (b) poverty reduction and sustainable livelihoods, with particular attention to vulnerable groups, including youth, women, internally displaced persons and disaster-prone communities; and (c) basic social services, encompassing education, health, nutrition, water and sanitation, and social welfare and protection. The country programmes of the United Nations agencies will be based on the priorities of the framework.

41. The Ministry of Health launched several national initiatives, including a basic health services package and an integrated community health services package. These initiatives are expected to dramatically increase access to quality health-care services throughout the country, and to set the country on track towards achieving the health-related Millennium Development Goals. In addition, the Ministry launched a multi-drug-resistant tuberculosis treatment programme with assistance from the World Health Organization, which is expected to further strengthen the national tuberculosis control programme. With a view to formulating the annual health workplan for next year, the Ministry of Health conducted an annual health sector review from 16 to 26 June, with the full participation of donors, United Nations agencies and other development partners. This exercise served to identify national priorities in the health sector and will further assist the Government and partners in aligning their objectives in support of these priorities.

42. In Dili, home to about one quarter of the labour force, unemployment is estimated at 23 per cent overall and 40 per cent among those aged 15 to 29. With thousands of young people entering the workforce each year, job creation is a top priority for the Government, for which it has been receiving assistance from the United Nations. In March 2008, the Youth Employment Promotion Programme was officially launched, a joint initiative involving the Government and the United Nations country team, with a total budget of $16.5 million. The four-year programme aims to deliver employment and training support to 70,000 young women and men, in all districts. In the launching phase, the programme initiated the establishment of a network of youth career centres to assist young people. The National Labour Force Development Institute was also launched. This will be responsible for the creation of a labour-market oriented vocational training system.

43. Through the poverty reduction programme jointly implemented by UNDP and the United Nations Office for Project Services, over 250 self-help groups in Oecusse, Ainaro and Manatuto districts received assistance to improve agricultural productivity through better harvest storage, provision of seedlings and training in improved farming techniques. In addition, a community development fund helped the rehabilitation of small but critical community-based infrastructure such as irrigation facilities, bridges, schools and community centres. A UNDP/United Nations Capital Development Fund five-year programme, which started in April 2008, will focus on increasing access to financial services for low-income segments of the population through policy development and strategic coordination to foster an enabling environment in the financial sector. The Government of Timor-Leste is now in the preparatory phases for the next census to be conducted in 2010, with support from the United Nations Population Fund.

C. Humanitarian assistance

44. As Timor-Leste is a net food importer, the global rise in food commodity prices is of particular concern. An inter-agency group led by the Food and Agriculture Organization of the United Nations (FAO), the World Food Programme and the World Bank has been providing technical advice to the Government regarding possible actions to alleviate the effects of world market developments. These include the continuation of subsidies for rice and ensuring the availability of supplies and, most importantly, making more funds available to purchase rice regionally or internationally to avoid a rice shortage in the immediate future, as the in-country rice stock is sufficient for a couple of months only. With the support of FAO, the Government is planning to encourage second-crop planting through seed distribution and guaranteed Government purchase of second crops.

45. The Government decided to reduce blanket food distribution to internally displaced persons in Dili to half rations starting in February 2008, so as to encourage more returns. Since the beginning of the year, some progress has been made and more than 1,400 families moved out of the camps of internally displaced persons, having received a recovery package under the Government's National Recovery Strategy. Eleven such camps in Dili have closed, including some of the larger ones. To date, approximately 13,500 families have registered their intention to return with the Ministry of Social Solidarity. The widespread perception among the internally displaced that prospects for their security improved with the death of Reinado and the surrender of Salsinha contributed to an acceleration of returns.

46. A number of obstacles faced by internally displaced persons continue to be of major concern, however, including unresolved issues with the communities to which they return, such as land and property disputes. The humanitarian community is encouraging the Government to maintain a comprehensive approach to the return, resettlement and reinsertion of internally displaced persons, consistent with the five pillars of the Government's National Recovery Strategy (housing, community trust-building, security and stability, social protection, and local socio-economic development). Under this approach, the return, resettlement and reinsertion options would be offered in a systematic, sustainable, timely and verifiable manner. UNDP is supporting a nationally led dialogue process which aims to foster communication, socialization, and trust-building between the Government, displaced families and communities. In providing a framework for the protection of persons returning or

resettling, UNMIT and the United Nations country team also continue to monitor and follow up on cases of concern. The International Organization for Migration, the Office for the Coordination of Humanitarian Affairs, UNICEF and UNIFEM supported a local civil society organization, Redefeto, in establishing women's committees in camps of internally displaced persons to protect and promote women's human rights and monitor sexual and gender-based violence. In March, the international community launched a Transitional Strategy and Appeal for US$ 33.5 million to assist with the return and resettlement of the displaced. To date, only 30 per cent (or some $10.5 million) of the amount requested in the appeal has been received.

V. Preparation of medium-term strategy

47. Given the Government's preoccupation with the events of 11 February and the subsequent state of siege, as well as with its own national planning processes, such as the mid-year budget review and the national priorities for 2008, it has not yet been possible to have meaningful discussions on the medium-term strategy and appropriate benchmarks, as requested by the Security Council in its resolution 1802 (2008). I therefore propose to revert with an agreed strategy and benchmarks in my next report.

48. It is currently envisaged that the medium-term strategy and benchmarks would cover four mandated priority areas of UNMIT, namely, review and reform of the security sector; strengthening of the rule of law; economic and social development; and promotion of a culture of democratic governance, together with efforts to enhance dialogue and reconciliation. Benchmarks in those areas would be formulated to measure whether the necessary structures, institutions and processes are in place to provide a solid basis for achieving sustainable stability and prosperity in Timor-Leste. Furthermore, the development of the medium-term strategy will be informed by the monitoring of the national priorities; with regard to the national police, a medium-term strategy is already well advanced (see para. 21 above).

VI. Financial aspects

49. The General Assembly, by its resolution 62/258 of 20 June 2008, appropriated the amount of $172.8 million for the maintenance of UNMIT for the period from 1 July 2008 to 30 June 2009. As at 31 May 2008, the total outstanding assessed contributions to the Special Account for UNMIT amounted to $20.8 million. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to $1,759.7 million. In accordance with the quarterly payment schedule, reimbursement of the costs of formed police units has been made for the period up to 31 May 2008, while payments for equipment owned by formed police units covered the period up to 31 March 2008.

VII. Observations

50. The events of 11 February were the first real test of the resiliency of State institutions since the events of 2006. The leaders and people of Timor-Leste did not allow those events to jeopardize the country's overall stability. The security

situation remained calm. Efforts to foster dialogue and reconciliation continued, President Ramos-Horta having brought all the leaders together at an expanded meeting of the High-level Coordination Committee, a mechanism for fostering political dialogue and national reconciliation. At the same time, my Special Representative's continuing good offices efforts promoted a more conciliatory atmosphere among the political leaders and aimed at instilling among political actors the appreciation of the value of a strong opposition and an effective Parliament. The petitioners' issue was addressed for the time being; internally displaced persons are slowly returning to their communities; and the national priorities for 2008, which constitute the international compact, were launched.

51. While these positive developments are to be welcomed, it also has to be noted that, in addressing the issues of the petitioners and internally displaced persons, the Government relied heavily on strategies that depend on financial settlements. Complex issues such as these can only be fully resolved if financial incentives are complemented by appropriate social, security and political initiatives that ensure lasting reconciliation at both the national and the local level. This, in turn, requires that State and government institutions be strengthened so that they can effectively implement such initiatives. Continuing international support will be needed in the medium and long term to assist in these efforts.

52. The events of 11 February also had some consequences that give rise to concern. Creating the Joint Command was an exceptional measure to deal with exceptional circumstances. While it made a contribution to the peaceful surrender of Salsinha and his group, the Joint Command's inability or unwillingness to deal adequately with alleged cases of abuse and its continuing activities beyond the end of the state of siege, when it no longer had a legal basis, were symptomatic of fundamental institutional challenges in the security sector. These shortcomings threaten respect for the rule of law which the State was so careful not to undermine during the early days of the state of siege; weaken efforts at security sector reform by blurring the functions and reporting lines of F-FDTL and the national police; and adversely affect the development of a culture of democratic governance by bypassing the appropriate structures and processes for policy development. The challenges confronting F-FDTL and the national police should be addressed through broad consultation to clarify and develop their respective roles. Defining a meaningful role for F-FDTL in a peacetime setting, enhancing its training, clarifying its relationship with the national police, and establishing internal accountability and civilian oversight mechanisms will be one of the primary challenges for the Government, to be addressed with the assistance of bilateral partners, in the short and medium term.

53. Progress was made in the reconstitution of the national police, and the moment has come to provide it with an opportunity to strengthen its capabilities through a gradual resumption of policing responsibilities between now and the end of the present UNMIT mandate, while the UNMIT police component is still at its current strength, so that the national police can benefit from the support and advice of UNMIT police on the ground. At the end of the current mandate, an assessment of what has been achieved during the consolidation phase can inform the judgement about the size and nature of the UNMIT police presence under any future mandate. However, I do envisage that any possible drawdown must contemplate the need for a continuing robust UNMIT police presence across the country, including formed police units, which would assume a monitoring and reporting role, provide advice

when requested and be able to offer operational support and, in extremis, assume interim law enforcement responsibilities if required and requested. The national police will need long-term training and support for many years, requiring the continuing commitment of the international community, including bilateral partners.

54. In addition to the reconstitution of the national police, further efforts are needed in all four of the UNMIT mandated priority areas if the underlying causes of the crisis of 2006 are to be addressed: review and reform of the security sector; strengthening of the rule of law, including full implementation of the recommendations of the Commission of Inquiry; economic and social development, including poverty alleviation and the creation of employment opportunities for youth; and promoting a culture of democratic governance — including continued efforts to facilitate political dialogue and national reconciliation. The Mission's integrated "one United Nations system" approach was invaluable in providing coordinated, holistic support to the people of Timor-Leste. Given the fragility of the security situation as well as the capacity constraints of the security institutions and nascent government and State institutions, no adjustments in the mandate and strength of UNMIT are recommended at this stage. While the primary responsibility for Timor-Leste's future lies in the hands of its leaders and people, the continuing engagement of the international community is necessary as Timor-Leste progresses towards self-sufficiency.

55. In conclusion, I wish to thank my Special Representative, Atul Khare, for his leadership and congratulate all the men and women of UNMIT and the United Nations country team for their dedication and determined efforts to advance the cause of peace and stability in Timor-Leste.